

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/776,321 04/15/97 WUBBEN

M 29865

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IM22/0726

EXAMINER

SHERRELL, C

ART UNIT	PAPER NUMBER
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35

1761

DATE MAILED:

07/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/776,321</b>	Applicant(s) <b>Wubben et al</b>
	Examiner <b>Curtis E. Sherrer</b>	Art Unit <b>1761</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on May 10, 2001
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) 10-16 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-9 and 17-29 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	20) <input type="checkbox"/> Other: _____

**Part III DETAILED ACTION**

1. The rejections based on 112 first paragraph have been obviated.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 36, 37, 39, 40, and 43-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Papazian (The New Complete Joy of Home Brewing, page 64) as evidenced by The Practical Brewer (pages 138-39) for the reasons set forth in the last Office Action.

4. Claims 36, 37, 39, 40, and 43-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Lutzen et al (Homebrew Favorites, pp. 80 and 81) as evidenced by The Practical Brewer (pages 138-39) for the reasons set forth in the last Office Action.

5. Claims 36, 37, 39, 40, and 43-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Bukovskii et al. (S.U. Pat. No. 685689) for the reasons set forth in the last Office Action.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18, 20-29, 31, 50 and 51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bukovskii et al. for the reasons set forth in the last Office Action

8. Claims 18, 20-29, 31, 50 and 51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bukovskii et al in view of The Practical Brewer and in further view of Food Colloids (pp. 418-35) for the reasons set forth in the last Office Action.

9. Claims 18, 20-29, 31, 36, 37, 39, 40 and 43-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoelle et al (U.S. Pat. No. 3,333,181) for the reasons set forth in the last Office Actions.

***Conclusion***

10. No claim is allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Tuesday through Friday from 6:30 to 4:30. The fax phone number for this Group is (703)-305-3602.

12. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Curtis E. Sherrer  
Primary Examiner  
July 25, 2001